



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Diogenes Corporation--Reconsideration

File: B-229828.2

Date: February 8, 1988

DIGEST

1. Post-award protest challenging experience requirement in a solicitation is untimely where the basis for protest was evident from the face of the solicitation and the protest was not filed before the closing date for receipt of proposals.

2. General Accounting Office (GAO) will not consider the merits of an untimely protest under the good cause exception to GAO timeliness requirements where there is no showing of a compelling reason beyond the protester's control that prevented the timely filing of the protest.

DECISION

Diogenes Corporation requests reconsideration of our decision in Diogenes Corporation, B-229828, Jan. 13, 1988, 88-1 CPD ¶ ___, in which we dismissed its protest of an award to Tower, Perrin, Foster & Crosby (Tower) under solicitation No. BEP-87-43(N), issued by the Bureau of Engraving and Printing, Department of the Treasury. The basis of the prior protest was that the experience provisions of the solicitation were unduly restrictive of competition because they favored Tower. We dismissed the protest because Diogenes had failed to timely file its protest prior to the closing date for receipt of proposals. Diogenes now argues that the solicitation impropriety was not apparent because it did not know that Tower was going to compete for award under the solicitation. Diogenes also argues that even if its protest was untimely that its protest should be considered under the good cause exception to the GAO timeliness rules because of the alleged violation of the Competition in Contracting Act.

We affirm the dismissal of the protest.


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Our Bid Protest Regulation provide that a protest based upon alleged improprieties in a solicitation that are apparent prior the closing date for receipt of proposals must be filed before that time. 4 C.F.R. § 21.2(a)(1) (1987).

Diogenes contends that solicitation provisions that call for evaluating whether an offeror is a "recognized authority" or has "highly qualified personnel" unduly favor Tower who is the "ONE firm that is considered as a recognized authority in the field of compensation." The protested provisions are not ambiguous, and Diogenes apparently knew, prior to the closing date for receipt of proposals, that Tower was a recognized expert. The only fact Diogenes did not know, prior to the closing date for receipt of proposals, was whether Tower would choose to compete for award under this solicitation. We find that the alleged restrictiveness of the solicitation provisions was apparent on the face of the solicitation and therefore the protest is untimely. See PacOrd, B-224249, Jan. 5, 1987, 87-1 CPD ¶ 7.

Diogenes also contends that its protest should be considered under the good cause exception to the timeliness requirements. We do not agree because Diogenes has not shown a compelling reason beyond its control that prevented Diogenes from filing a timely protest. See LORS Machinery, Inc.--Reconsideration, B-227499.2, July 13, 1987, 87-2 CPD ¶ 41.

Our dismissal of the protest is affirmed.


James F. Hinchman
General Counsel